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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,723	01/24/2001	Nan Zhang	2316.1272US01	1220

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EXAMINER

WANG, GEORGE Y

ART UNIT	PAPER NUMBER
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2871

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N .	Applicant(s)
	09/768,723	ZHANG ET AL.
	Examiner George Y. Wang	Art Unit 2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 January 2003.
 - 2a) This action is **FINAL**. 2b) This action is non-final.
 - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1-5 and 7-25 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 - 5) Claim(s) _____ is/are allowed.
 - 6) Claim(s) 1-5 and 7-25 is/are rejected.
 - 7) Claim(s) _____ is/are objected to.
 - 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 January 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-5 and 7-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerman et al. (U.S. Patent No. 6,134,207, from hereinafter “Jerman”) in view of Roth et al. (PCT Pub. No. WO 02/21191, from hereinafter “Roth”).

3. Regarding claims 1, 11, 16-17 and 19-20, Jerman discloses an optical switch apparatus (fig. 12, ref. 104) and method formed on a single substrate (fig. 12, ref. 213),

having an input (fig. 12, ref. 98), four outputs (fig. 12, ref. 151), a first and second actuator (fig. 12, ref. 180) coupled to a first and second mirror (fig. 12, ref. 103), respectively, such that the mirrors, which are disposed parallel to each other and offset and spaced to each other (col. 15, lines 43-65), can be moved to and from a range of extended and retracted positions (col. 16, lines 25-47) to reflect various outputs.

However, the Jerman reference fails to specifically disclose a notch in the first mirror in order to allow light to pass without being reflected.

Roth discloses a optical switching and routing device having a mirror with a notch that is capable of allowing light to pass without being reflected (fig. 5a, ref. 296).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a notch in the mirror in order to increase reflective output combinations. According to Jerman, the mirrors can be fully retracted or fully extended providing a wide range of reflections possibilities (col. 16, lines 38-47). Furthermore, having a mirror with a notch that is capable of allowing light to pass without being reflected not only increases output possibilities, but also increases error tolerance without sacrificing the precision of the switch (pg. 7, lines 3-7). These advantages reduce the required fabrication costs, reduce coupling losses, and improve the overall robustness of switch and router assemblies (pg. 7, lines 7-9).

4. Regarding claims 2-5, 12-15, and 18, Jerman discloses an optical switch apparatus and method as recited above with comb drives (col. 18, lines 30-47) for positioning the mirrors in retracted and extended positions, where the first and second

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mirror displaced at a combination of extended and retracted positions to reflection and transmission of optical signals into four outputs (col. 16, lines 25-47).

5. As to claim 7, Jerman discloses an optical switch apparatus and method as recited above, however, the Jerman reference fails to specifically disclose a notch in the second mirror in order to allow light to pass without being reflected.

Roth discloses a optical switching and routing device having a mirror with a notch that is capable of allowing light to pass without being reflected (fig. 5a, ref. 296).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a notch in the mirror in order to increase reflective output combinations. According to Jerman, the mirrors can be fully retracted or fully extended providing a wide range of reflections possibilities (col. 16, lines 38-47).

Furthermore, having a mirror with a notch that is capable of allowing light to pass without being reflected not only increases output possibilities, but also increases error tolerance without sacrificing the precision of the switch (pg. 7, lines 3-7). These advantages reduce the required fabrication costs, reduce coupling losses, and improve the overall robustness of switch and router assemblies (pg. 7, lines 7-9).

6. As to claims 8-10 and 21-25, Jerman and Roth discloses an optical switch apparatus and method as recited above with comb drives (col. 18, lines 30-47) for positioning the mirrors in retracted and extended positions, however, the reference fails

to specifically disclose a double-comb drive for providing a second extended position of the mirrors.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a notch in the mirror and a double comb-drive actuator since one would be motivated to move the mirrors in a second extended position and allow passage of optical signals through the notch to increase reflective output combinations. According to Jerman, the mirrors can be fully retracted or fully extended providing a wide range of reflections possibilities (col. 16, lines 38-47). This flexibility is indicative of using second extended mirror positions to provide greater output possibilities. Moreover, Furthermore, since double-comb drives are well-known in the art for driving mirrors and actuators, using them instead of single-comb drives involves only routine skill in the art. Therefore, it would have been obvious to one of ordinary skill in the art to use a double-comb drive to increase in the accuracy of mirror actuation and positioning would, reduce the size and cost of manufacture since it is limited (col. 1, lines 53-63), and thereby achieving a more efficient and more reliable optical switch.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Y. Wang whose telephone number is 703-305-7242. The examiner can normally be reached on M-F, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim can be reached on 703-305-3492. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

gw
June 30, 2003


ROBERT H. KIM
SUPervisor
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